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Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515-6015

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October 24, 2003

The Honorable Ralph Regula
Chairman
Subcommittee on Labor-Health and Human Services-Education
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Ralph,

As we have discussed on repeated occasions, the decisions made last spring in the Budget Resolution and in the allocations adopted by the full Appropriations Committee forced the Labor-HHS-Education Subcommittee to cut billions of dollars from the promises made in both the *No Child Left Behind Act* and the *Individuals with Disabilities Education Act*. The appropriation bill that you took to the floor in July provided \$8 billion less in funding for the *No Child Left Behind Act* than the amounts authorized for that program only two years ago, and \$11.2 billion less than the amount needed to cover 40% of the cost of educating all disabled students, a goal widely espoused by Members of Congress on both sides of the aisle. Incredibly, the bill was \$1.2 billion below the amount promised for disabled education in the Budget Resolution pushed through the House by your leadership only three weeks before this bill was reported from subcommittee. The appropriation bill that you took to the floor also forced an actual reduction in research to conquer a number of dreaded diseases and it provides fewer funds for the "*Meals on Wheels*" program than are needed to maintain the current number of meals being served.

It was for these reasons that Democrats in the House regretfully found it necessary to oppose your appropriation measure. As we stated at the time, you produced the best product you could given the limitations imposed on you but we did not agree with those limitations. We specifically did not agree that tax cuts targeted to a small and very well-

off segment of the population were more important than meeting the pressing budget shortfalls in our schools, maintaining our level of effort in fighting dreaded diseases or ensuring that our infirm elderly get enough to eat. I think you know our reasons and I think you know that they were heartfelt matters of conscience that gave us no alternative but to vote against the funding levels that you were forced to put forward.

That is why I am so deeply disturbed by the proposal attributed to you in various press accounts. They indicate that you plan to add \$1 billion in various types of earmarks to this appropriation bill, with none of those earmarked funds going to the 205 Congressional Districts represented by Democrats. This, according to those accounts, is in retribution for the fact that all Democrats voted against your bill when it was considered on the House Floor.

As you know, I have repeatedly opposed the earmarking of funds in the Labor-HHS-Education bill. In the 22 years that I served on this subcommittee prior to the Republican takeover of the House, there was rarely an earmark of any kind in this bill, and on the rare occasions when earmarks did appear, they were inserted by the Senate over the strong opposition of House Democrats. During that period, I never earmarked one dime of Labor-HHS-Education funding for my district. Significant earmarks did not begin to appear in the Labor-HHS-Bill until after 1995. In the fiscal year 1996 appropriation, after the Republican takeover, \$33 million was earmarked. Two years later, earmarks jumped to \$97 million and the following year (fiscal year 1999) earmarked Labor-HHS funds jumped to \$300 million. In fiscal year 2000 they jumped to \$453 million and the following year to \$911 million. In fiscal year 2002 they hit \$1 billion.

As you know I repeatedly urged the conferees during those years to reduce or eliminate these earmarks for the simple reason that we were leaving too many pressing needs unmet in the bill to be able to fund a panoply of individual member concerns—a significant portion of which clearly failed on any reasonable scale of priorities to rank with teaching children to read or fighting cancer.

The argument against earmarks was made on an almost daily basis by members of your own party throughout the 1980s and early 1990s. While there was virtually no “pork” in the Labor-HHS-Education bill and far less in nearly all of the other appropriation bills than is true now, the alleged “*excess of pork*” in appropriations measures was exhibit A in the Republican mantra about “*forty years of mismanagement*.” As Ernest Istook, a member of our subcommittee, was fond of saying during that period, “*a pig is a pig, even if he lives at home.*”

The argument against diverting funds to lower priority purposes was a strong one even when we were in a period like the late 1990s when the fiscal condition of the federal government was rapidly improving and we were not facing the extreme budgetary constraints that have been placed on this year’s appropriation. It is obviously a much stronger argument now, given the excruciating choices contained in the bill that passed the House last July.

But there is another reason that I find the proposal attributed to you deeply disturbing. What this proposal really translates into is not simply the diversion of money needed to more adequately fund critical national priorities such as reading improvement, but the use of those funds for the creation of a slush fund to intimidate members into voting against adequate funds for programs that they believe are important for the American people. The clear message is that if you support the Republican cuts in education, health research and assistance to seniors, you will get projects to help with your reelection. If you vote your conscience and support more funding for education and health you will get stiffed. This is nothing more than systematic bribery with public funds to enforce the "Robin Hood in reverse" policies of your party.

The 205 Congressional Districts represented by House Democrats contain more than 130 million American taxpayers. To tell those people that they will receive no portion of a \$1 billion pot of the nation's tax dollars because they are represented by a Member of Congress who supports more money for their schools is not only in my judgment unethical but represents a fundamental corruption of the legislative process.

Apparently, we are now too far along in the appropriation process for the current year to have any significant prospect of convincing your leadership to make even moderate improvements in this year's Labor-HHS-Education bills. But there is one option left that could avoid at least some of the consequences that these bills spell out for our schools, health research and seniors programs. If the money that is planned for all earmarks is instead used to increase support for No Child Left Behind and Individuals with Disabilities Education programs and is used to ensure no cutbacks in health research and feeding programs for seniors, I would be willing to support the bill and urge my colleagues on the Democratic side of the aisle to do the same. This would only be conditioned on the willingness of the House conferees to accept the House-passed instruction that they recede to the Senate amendment on overtime pay.

You and I have been good friends over the years. We share many things including a desire to improve our schools and an abiding concern for the protection of our nation's parks and wilderness areas. I know that in your heart you realize that this bill does not represent what we should be doing for our schools and I hope that somehow we can find a solution that is acceptable to a broad spectrum of the House and the American people, rather than to the narrow majority of House Members that now supports the House-passed bill that clearly does not meet the nation's needs.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dave", with a large, sweeping loop at the beginning.

Dave Obey.